

### **REMARKS**

This responds to the Office Action mailed on February 10, 2009.

Claims 1, 3, 5, 9-12, 14, 20-22, 24-27, 29, 34, 37-40, 42-43, and 47 are herein amended. Claims 4, 6-7, 13, 17, 28, 31, 41, and 44 remain canceled, and no claims are added. As a result, claims 1-3, 5, 8-12, 14-16, 18-27, 29-30, 32-40, 42-43, and 45-47 are now pending in this application.

#### **Amendments to the Claims**

Independent claims 1, 20, and 34 are each amended to recite, in part, “receiving availability data of the property” and “based on the availability data, communicating a subset of the plurality of property profiles to the requesting party.” Supporting subject matter for these amendments is found in at least paragraphs 0014 and 0017 of Applicants’ specification.

#### **§ 103 Rejection of the Claims**

Claims 1-3, 5, 8-12, 14-16, 18-27, 29-30, 32-40, 42-43, and 45-47 were rejected under 35 U.S.C. § 103(a) as being obvious over Fraser (U.S. Patent No. 5,664,115) in view of Hughes et al. (U.S. Patent No. 5,736,977, hereinafter “Hughes”) and Tozzoli et al. (U.S. Patent No. 5,717,989, hereinafter “Tozzoli”). A determination of obviousness requires a factual showing that “the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”<sup>1</sup>

Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined.<sup>2</sup>

Applicants respectfully submit that a determination of obviousness is not established with respect to the amended claims for the reason that the scope and content of the cited references, even if combined, do not teach or suggest Applicant’s claimed subject matter or support rational

<sup>1</sup> *Graham v. John Deere*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966).

<sup>2</sup> *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d 1385 (2007).

inferences that one skilled in the art reasonably would be expected to draw to reach Applicant's claimed subject matter.

As amended, each of independent claims 1, 20, and 34 recites, in part, "**receiving availability data** of the property"<sup>3</sup> and "**based on the availability data, communicating** a subset of the plurality of property profiles to the requesting party."<sup>4</sup> Neither Fraser, nor Hughes, nor Tozzoli, contain any mention of these elements or any functional equivalent.

Fraser is directed to a "matching buyers and sellers over network based on buyer selection and screening criteria."<sup>5</sup> According to Fraser, "The host system obtains and stores a first set of records each corresponding to a property to be sold."<sup>6</sup>

[T]he property record includes . . . : property identification number, type of property, cost, associated seller number, and any requesting buyers. Several other fields are also included to describe the property, for example, location, size, sales volume, and so forth.<sup>7</sup>

While Fraser discusses obtaining a record corresponding to a property, Fraser does not mention availability data or any functional equivalent thereof.

Hughes is directed to "providing . . . an audio-visual presentation of a property."<sup>8</sup> Although Hughes discusses "and information window 24 to inform the user of the neighborhood and surrounding area, including points of interest, such as property, schools, and shopping,"<sup>9</sup> Hughes does not mention availability data or any functional equivalent thereof.

Tozzoli is directed to a "trade system [that] receives inputs from and supplies outputs to buyers, sellers, funders and the various parties involved in a trade transaction . . . ."<sup>10</sup> Although Tozzoli discusses "purchase order forms [that include] certain terms, such as a description of the goods, price, quantity, and delivery times,"<sup>11</sup> Tozzoli does not mention availability data or any functional equivalent thereof.

<sup>3</sup> Claims 1, 20, and 34, emphasis added.

<sup>4</sup> *Id.*, emphasis added.

<sup>5</sup> Fraser, col. 1, lines 11-12.

<sup>6</sup> *Id.*, abstract.

<sup>7</sup> *Id.*, col. 5, lines 55-60.

<sup>8</sup> Hughes, abstract.

<sup>9</sup> *Id.*, col. 3, lines 61-64.

<sup>10</sup> Tozzoli, col. 4, lines 51-54.

<sup>11</sup> *Id.*, col. 6, lines 34-37.

As a result, Fraser, Hughes, and Tozzoli, whether considered alone or in combination, fail to disclose “*receiving availability data* of the property” or “*based on the availability data, communicating* a subset of the plurality of property profiles to the requesting party,” as recited in Applicants’ claims. Thus, the cited references do not disclose at least these elements of independent claims 1, 20, and 34.

For at least these reasons, the scope and content of Fraser, Hughes, and Tozzoli, taken singly or in combination, do not teach or suggest Applicant’s claimed subject matter or support rational inferences that one skilled in the art reasonably would be expected to draw to reach Applicant’s claimed subject matter. As a result, a determination of obviousness has not been established with respect to amended independent claims 1, 20, and 34 and their respective dependent claims. Thus, Applicant respectfully requests that these rejections be withdrawn and the claims be allowed.

Claims 14, 19, 29, 33, 41-42, and 46 were rejected under 35 U.S.C. § 103(a) as being obvious over Fraser as modified by Hughes and Tozzoli as applied to claim 1 in further view of Broerman (U.S. Patent No. 6,594,633). As discussed above, Fraser, Hughes, and Tozzoli, even if combined, fail to disclose “*receiving availability data* of the property” and “*based on the availability data, communicating* a subset of the plurality of property profiles to the requesting party,” as recited in each of independent claims 1, 20, and 34. Broerman is directed to “a real estate computer network”<sup>12</sup> and discusses “property information” that includes “[property] number; type and dimension of rooms; address; directions to the property; fixtures and features; [and] acreage”<sup>13</sup>. Broerman, however, contains no disclosure of at least the elements shown to be absent from Fraser, Hughes, and Tozzoli. Applicants respectfully submit that claims 14, 19, 29, 33, 41-42, and 46, as dependent claims, are therefore not obvious over Fraser as modified by Hughes and Tozzoli in further view of Broerman. Applicants therefore respectfully request that these rejections be withdrawn and the claims be allowed.

Claims 2, 11, 21, 26, and 39 were rejected under 35 U.S.C. § 103(a) as being obvious over Fraser as modified by Hughes, Tozzoli and Broerman as applied to claim 1 in further view

<sup>12</sup> Broerman, title.

<sup>13</sup> *Id.*, col. 9, lines 8-17.

of Walker et al. (U.S. Patent No. 5,884,272, hereinafter “Walker”). ). As discussed above, Fraser, Hughes, Tozzoli, and Broerman, even if combined, fail to disclose “**receiving availability data** of the property” and “**based on the availability data, communicating** a subset of the plurality of property profiles to the requesting party,” as recited in each of independent claims 1, 20, and 34. Walker contains no disclosure of at least the elements shown to be absent from Fraser, Hughes, Tozzoli, and Broerman. Applicants respectfully submit that claims 2, 11, 21, 26, and 39, as dependent claims, are therefore not obvious over Fraser as modified by Hughes, Tozzoli, and Broerman in further view of Walker. Applicants therefore respectfully request that these rejections be withdrawn and the claims be allowed.

Claims 15-16, 30, and 43 were rejected under 35 U.S.C. § 103(a) as being obvious over Fraser as modified by Hughes, Tozzoli and Broerman in further view of Eggleston et al. (U.S. Patent No. 6,061,660, hereinafter “Eggleston”). ). As discussed above, Fraser, Hughes, Tozzoli, and Broerman, even if combined, fail to disclose “**receiving availability data** of the property” and “**based on the availability data, communicating** a subset of the plurality of property profiles to the requesting party,” as recited in each of independent claims 1, 20, and 34. Eggleston is directed to “providing incentive programs over a computer network.”<sup>14</sup> Eggleston, however, contains no disclosure of at least the elements shown to be absent from Fraser, Hughes, Tozzoli, and Broerman. Applicants respectfully submit that claims 15-16, 30, and 43, as dependent claims, are therefore not obvious over Fraser as modified by Hughes and Tozzoli in further view of Broerman. Applicants therefore respectfully request that these rejections be withdrawn and the claims be allowed.

---

<sup>14</sup> Eggleston, abstract.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4048 to facilitate prosecution of this application.

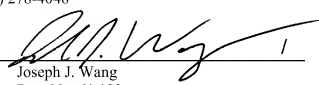
If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(408) 278-4048

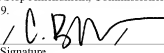
Date 11 May 2009

By /

  
Joseph J. Wang  
Reg. No. 61,123

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 11th day of May, 2009.

Chris Bartl  
Name

  
Signature